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WEDNESDAY : : : November 9th

HAWAIIAN PARLIAMENT.

Legislative Assembly—Extra Session of 1887.

Fifth Day.

TUESDAY, November 8th.

House met at 10 a. m. Prayer by the chaplain. Minutes read and approved.

PETITIONS.

Rep. Kinney presented a petition from the Blue Ribbon League with 600 signatures praying that the sale of intoxicating drinks be restricted. The introducer said the district of Hamakua headed the petition with 208 signatures. Referred to the Special Committee.

Noble Townsend presented a petition from the Woman's Christian Temperance Union relating to the restriction of the sale of intoxicating liquors. Referred to the Special Committee.

REPORT OF SANITARY COMMITTEE.

Noble Waterhouse presented the following report from the Sanitary Committee: Hon. S. G. Wilder, President Legislative Assembly, Sir—The Sanitary Committee to whom was referred an Act to amend chapter XI of the Session Laws of 1876 relating to the public health, recommend that the bill be passed to engrossment.

Respectfully submitted,

HENRY WATERHOUSE,
JOHN RICHARDSON,
H. DEACON,
C. F. HONER,
D. KAMAL.

Minister Thurston moved the report be adopted. Agreed to. He then moved the bill be engrossed and read a third time on Friday.

President Wilder said the bill would take its regular course.

Noble Widemann thought this fast legislation with a vengeance. Probably no members outside of the committee knew anything about the bill and here it was going to its third reading.

After some further discussion the bill was ordered to be engrossed and read a third time on Friday.

SUPREME COURT JUSTICES' BILL.

Rep. Kinney presented the following majority report from the Judiciary Committee:

Hon. S. G. Wilder, President Legislative Assembly, Sir—We the undersigned, a majority of the Judiciary Committee, beg leave to present the following report upon a bill referred to said committee entitled "An Act relating to the number of the Justices of the Supreme Court."

We recommend that said bill be indefinitely postponed, and that in its stead the accompanying bill be passed to wit: a bill bill to repeal an Act relating to the Justices of the Supreme Court, approved the 15th day of October A. D. 1886.

The result if this recommendation is carried out will be to reduce the Judges of the Supreme Court again to three and in short to place the Supreme Court in all particulars in the position it occupied prior to the passage of the Act in 1886, increasing the number of the Judges thereof to five.

The argument in favor of this position is that three Judges can comfortably and with efficiency do all the work and more hitherto done by five, it being understood by your committee that as a matter of fact the four remaining Justices have not had sufficient to keep themselves occupied, though for some time past doing all the work of the Court owing to the protracted illness of the late deceased Justice, Hon. A. Fornander.

Respectfully submitted

A. JAEGER,
A. P. PAEHAOLE,
W. A. KINNEY,
CHAS. WALL.

Rep. C. Brown presented the following minority report of the Judiciary Committee:

Hon. S. G. Wilder, President of the Legislative Assembly—Sir: A minority of the

Judiciary Committee begs leave to report that he has had under consideration the bill relating to the number of the Justices of the Supreme Court. The present Supreme Court as now constituted consists of five Judges, and the Constitution provides that there shall not be less than three.

From information obtained, this member of the committee is satisfied that the work can be satisfactorily and quickly disposed of by three Judges, but as there is a contemplated and radical change to be made in the workings of the whole of the judiciary system, and a bill to that effect is being drafted, and will in all probability be presented at the next regular session of the Assembly, the present bill was introduced in order that such bill could be drafted and ready for the next session, and that in the meantime should any other vacancy occur, that appointments need not be made to fill such vacancy and the vacancy now existing.

I therefore recommend that the bill pass. Respectfully submitted,

CECIL BROWN.

On motion of Noble Castle the two reports were accepted and made special order to be considered at 2 o'clock in the afternoon in Committee of the Whole.

THE ENGLISH LOAN.

Minister Green presented the following statement, which was read to the House by Minister Brown:

To the Hon. S. G. Wilder, President of the House of Nobles and Representatives in Legislature assembled—Sir: In accordance with a resolution that the Minister of Finance inform this Assembly in writing of the present status of the so-called English Loan, the amount of bonds sold in the English market, the charges or commissions attending such sale in detail, whether or not the bonds comply with the statute authorizing their issuance, and further that the policy of His Majesty's Government in the matter be fully explained, and whether it is the intention of the Government to introduce an Act for legislation in the premises. I have the honor to report that:

The amount of bonds sold in London and agreed to be delivered to the subscribers thereto was £200,000, for which they paid at the rate of £98 for each £100 of bonds, netting the sum of £196,000 at the disposal of the Hawaiian Government or their financial agents. The said agents have paid charges out of the above proceeds as follows: 5 per cent commission on £200,000, or £10,000, to the syndicate which it was agreed and understood should float the loan; in other words, which guaranteed that all the bonds should be sold at not less than 98, as allowed by law. They have also paid to certain London firms the sum of £15,000 as expenses of floating loan, etc., which payment has never been allowed by the late or the present Government, and to which I shall refer again.

They also authorized the payment of the first six months' interest on the bonds, amounting to £6,000, against which, however, I have now received a credit note for £704 6s. 6d., being interest allowed by Messrs. Matheson & Co. (the issuing house) on sums received by them at the Bank of England rate. This rate, which was 3½ per cent per annum, in December, gradually declined until April, May and June of this year, when it was as low as ¾ and 1 per cent per annum.

Up to July 6th last no account of the above mentioned £15,000 had been received by this Government; indeed, no such amount as £15,000 had been mentioned in all the correspondence from Mr. H. R. Armstrong, the financial agent of this Government, although that gentleman had forwarded to the late Minister of Finance a cable message, dated London, December 6th, as follows: "Have authorized Mathesons to pay proportional expenses out of first issue in term of bond. Please cable confirmation. Armstrong."

He also wrote to the same effect on December 30th, saying: "In the meantime I have paid the expenses of the issue—printing, advertising, brokerage and issuing—which amount to a sum larger than I had anticipated, but well within the proportion of the expenses as provided in the Act authorizing the national loan."

No reply was given by the late Government to the cable message or to this part of Mr. Armstrong's letter. There was some ground for this, as it would have been impossible for any one holding the interpretation of the Loan Act universally held here, to know what was meant or what sum had been paid that required confirmation from this Government. On July 6th I received through Messrs. G. W. Macfarlane & Co., with the first set of bonds, an unsigned memorandum dated Honolulu, July 6th, which professed to account for the £196,000 received from the subscribers for bonds in London, and by which, for the first time, this Government became aware that they had been charged £15,000 "Expenses of floating loan—part of \$100,000 authorized by Loan Act," and in addition to the £10,000, or the commission of 5 per cent to the syndicate. It would appear that this £15,000 was intended to represent three-quarters of the \$100,000 which the amended Loan Act of October 15, 1886, appropriates for expenses of floating loan, etc., and which our financial agents interpreted as being an allowance for expenses, distinct from the 5 per cent commission. Mr. H. R. Armstrong, as in confirmation of this view, sends me a copy of a letter which he wrote to Mr. Gibson on August 25, 1886, and in which he informed Mr. Gibson that the expense of floating a loan in London would be 6½ per cent besides the 5 per cent commission to the syndicate, and he gives the details. A copy of this letter will be found in Mr. G. W. Macfarlane's report to me in the loan matter dated 4th instant, and which report accompanies this.

Mr. Gibson does not appear to have made any reply to this letter, and the only guide as to what he understood in the premises is the Loan Act itself, which his Government assisted in passing. £15,000 would represent, as I have said, three-fourths of the \$100,000 appropriated, whilst only half the \$200,000 loan has been raised in London, but the financial agents of the Government contend that virtually the whole \$150,000 was floated, or could have been so floated without further expense than the commission to the syndicate. As this Government do not recognize any part of

this £15,000 as a legitimate charge, it is necessary to discuss on what proportion of the loan it is chargeable.

With regard to the form and denomination of the bonds, it would appear that when Mr. Armstrong left this country for London in August, 1886, he was under the impression that they were to be in pounds sterling, as is usual when foreign countries raise loans in England, whilst it seems equally certain that the Premier, Mr. Gibson, and his colleagues understood that they were to be in United States gold coin in accordance with the Act. Mr. Armstrong in his correspondence with me complains that he received no detailed instructions from the late Minister of Finance or from the premier with regard to negotiating the loan, and that all such details were left to his own judgment, and he was therefore obliged to act on his own responsibility. It must be admitted that there is no record of any such instructions having been given to him, and when we call to mind the circumstances connected with the administration of the Government at that time, it is hardly surprising that no detailed instructions were given to his financial agent on such a matter. Everything seems to have been left in Mr. Armstrong's hands. This gentleman came here as the representative of a London syndicate, and intimated that it was prepared to float a loan in England for this Government. The Cabinet invested him (the representative of that syndicate) with full powers to negotiate such loan, but with no written instructions as to the terms and other important details. In justice to Mr. Armstrong it must be admitted that this course placed him in a somewhat difficult position.

The following is a copy of the power given to Mr. Armstrong by the late Minister of Finance to negotiate the loan:

"To whom it may concern. Be it known that by authority of His Majesty the King in Cabinet Council, I have given power to H. R. Armstrong, Esq., of London, England, to negotiate on the part of the Hawaiian Government, and in conformity with the Act authorizing a loan approved September 1st, A. D. 1886, and the Act amendatory thereof, approved October 15th, A. D. 1886, the sale of the coupon bonds of the Hawaiian Government, and to do and perform all acts which may be necessary in the premises, with the authority to delegate this power.

"Witness my hand and the seal of my Department, this 23d day of October, A. D. 1886.

"(Signed) PAUL P. KANOA.

"His Hawaiian Majesty's Minister of Finance."

Mr. G. W. Macfarlane received a precisely similar power, dated the same day. It will be observed that Mr. Armstrong had power to negotiate the loan in conformity with the Acts. This, in the absence of any written instructions, threw a very grave responsibility on that gentleman. Mr. G. W. Macfarlane only arrived in London after the loan was floated and the scrip issued.

When Mr. Gibson learned from Mr. Armstrong that the bonds were to be in pounds sterling, he objected, but on the latter explaining that it was customary to so make them in all cases when foreign loans were placed in England, notwithstanding that the statutes authorizing them referred only to the coinage of the country, he gave his "reluctant consent," telling him at the same time to go on and raise another £100,000. This was, however, delayed, first by the news of the change of government of July 1st, and then stopped by a cable message from this Department. Thus it will be seen that the issue of bonds in pounds sterling has been done with the concurrence of the duly authorized agent of the Government, and has been assented to by the late Premier.

The first set of forms of bonds, which arrived in July last contained an unequalled statement that £200,000 sterling was "the equivalent of \$1,000,000 of gold coin of the United States of the present standard," which was one that no Hawaiian Minister of Finance could allow over his signature. This alone was sufficient to condemn that form of bonds, and as there appeared to be other irregularities in the wording of them, I wrote to Mr. Armstrong in the same month (July) stating that as that form of bonds could not be signed and new ones would have to be printed, I hoped he might be able to arrange for bonds in U. S. gold to the amount of that coin which this Government had received in San Francisco, with the legitimate charges added, leaving the £15,000 matter to be settled afterwards. He replied that this was impossible and that no change in the denomination of the bonds could be made without breaking faith with the bond-holders, or rather with the holders of certificates which engaged to furnish bonds in pounds sterling.

Mr. Armstrong has since arranged to have a new set of bonds printed with the most objectionable clause about the equivalent of pounds sterling in United States gold coin omitted. Mr. G. W. Macfarlane has brought this new set of bonds with him, and the bond holders expect them to be signed by the present Minister of Finance as successor to P. Kanoa and by the Registrar of Public Accounts, and to be returned so as to arrive in London by the 31st of December.

The situation in brief is this: Our financial agents have sold £200,000 worth of bonds, and have received the money therefor. They have accounted to this Government for such sum, less £15,000, which they claim to have spent for expenses. If the sale of bonds was to bona fide purchasers, we have no right to punish them for the wrongful act of our financial agents, and they should have their bonds.

My colleagues and myself would therefore recommend that the Legislature authorize the issue of bonds in pounds sterling, and that they be signed and delivered to those who are bona fide entitled to them. This would leave only one question open, that is where the liability to this Government rests, for the repayment to it of the £15,000 which has been illegally paid by its financial agents.

The Cabinet is of opinion that this Government have no one to look to for the reimbursement of this money but its financial agents. It would be unjust, and I may add futile, to make the bond holders suffer

by delaying the execution of the full amount of their bonds.

I may state here that there can be no material loss to the Treasury in having the principal and interest of the bonds payable in pounds sterling instead of in United States gold coin. A different impression may have been gathered from the statements regarding the loan in my intermediate Financial report, but these statements have no bearing on the present question and were only intended to account for the difference between the nominal \$1,500,000, which the Government were assumed to have borrowed, and the actual sums received by the Treasury. At the recent ruling rates of exchange between San Francisco and London this Government could have repaid £200,000 sterling in London with \$970,000 in U. S. gold, and the half-yearly interest of £6,000 with \$29,100 in U. S. gold.

It has not borrowed \$1,000,000 U. S. gold and does not pay interest on that amount. Respectfully submitted,

W. L. GREEN.

Minister of Finance.

Noble Castle said that as the two reports had not been translated, he moved they be translated and printed and laid before the House.

Minister Brown thought it hardly necessary to have the financial agent's report translated, as a good deal of it was embodied in the Minister of Finance's statement.

Noble Baldwin moved that the reports be referred to a committee of five, to be elected by ballot by the House. It was one of the most important matters before the House. The country was looking to them to present an unbiased and thorough report. A thorough investigation was desirable. By electing such a committee he thought it the only way to arrive at a thoroughly unbiased opinion. In that way they would show the country that they looked upon this loan matter as one of great importance and that they would investigate it thoroughly.

Noble Smith seconded the motion. Noble Castle thought the motion a little "too previous." The reports should first be translated and printed. He did not know whether the Ministers were going to bring in a loan bill or not. Perhaps they would.

Noble Smith thought the motion would tend to facilitate this matter. The committee, if appointed, would go to work at once. It would take them some time.

Noble Richardson was not in favor of referring the matter to a select committee. The report was to go to the Printing Committee, and could not be in the hands of two committees at the same time.

Minister Green thought the reports ought to be printed in English and Hawaiian and laid before the House before the committee was appointed. He was as anxious as anyone to have this matter hurried, but would like to have it properly brought before the House.

The reports were received and ordered to be translated and printed.

RECONSIDERATION.

Noble Waterhouse moved that the resolution presented by Noble Castle, relating to the business of the House, and passed, be reconsidered.

Noble Castle asked if Noble Waterhouse voted with the majority.

President Wilder said he did. Rep. Kinney was in favor of reconsideration, as he did not believe in tying up their discretion.

The motion to reconsider was carried, and the resolution was then laid on the table.

NOTARIES PUBLIC BILL.

Minister Thurston gave notice of an Act to amend section 1,226 of the Civil Code, relating to notaries public.

PERMANENT SETTLEMENT BILLS.

Rep. Kalakaua read for the first time the following bills: An Act to repeal chapter 17, Session Laws of 1882, relating to pension for Hon. H. Kihelani; an Act to repeal chapter 45, Session Laws of 1882, relating to a permanent settlement for Mrs. P. Nahalelua; an Act to appeal chapter 51, Session Laws of 1886, relating to a permanent settlement for Mrs. Emma Barnard.

The three bills passed to second reading.

THE OPIUM LAW.

Rep. Kamuhoe offered a resolution that the Minister of Interior be requested to answer the following questions: 1. When was the sale of opium licensed by the Act of 1886? 2. To whom issued, and for how long? 3. How much money was paid for the same license?

CROWN LAND REVENUES.

Minister Thurston gave notice of an Act to establish a commission to receive and disburse the Crown land revenues and to define the powers and duties of such commission.

SPIRITUOUS LIQUORS.

Noble Smith gave notice of two bills relating to the licensing of spirituous liquors.

CROWN LANDS AGAIN.

Noble Hitchcock presented the following resolution:

WHEREAS, At the present time large tracts of land on these Islands, known as Crown lands, are now unavailable for the use of the public, and cannot be disposed of by law; and it has become necessary that said lands should be thrown open for settlement, thereby increasing the number of actual settlers in the Kingdom and its general welfare; therefore be it

Resolved, That a commission consisting of five members, one to be selected from each island, be appointed by the President, whose duty it shall be to inquire into the matter of the Crown lands and make a full report on the same, their location, extent, value, availability for settlement, and any other information that they may deem of value, at the next regular session of this House, incorporating in such report their opinion on the best method or methods of rendering said lands available for settlement under the Homestead Act. Also, that the report requested of the Crown Commissioners a few days since be placed by said Commissioners before the Commission, which report of the Crown Commissioners shall be incorporated in the report of this Commission.

Noble Castle moved the resolution be adopted. A select committee was appointed in 1878, but they never reported as

they found something wrong with the title. He thought that one-fifth of this country should not be locked up.

Rep. Kinney said there were very few Government lands that could be utilized under the Homestead Act. Some were tied up by lease; perhaps an exchange could be made for Crown lands. The House ought to have some facts before it.

Noble Baldwin said it was apparent to all that in future if they wished to introduce a valuable class of immigrants they would have to furnish an opportunity for them to obtain homesteads.

At 12 o'clock the House took a recess.

Afternoon Session.

The House assembled at 1:05 o'clock.

Rep. Kamuhoe moved the resolution introduced by Noble Hitchcock be indefinitely postponed.

Rep. Paris spoke in favor of the resolution.

Minister Thurston said that applications were coming to him by every mail for land under the Homestead Act. This committee is for the purpose of inquiry, and he thought it would be a solution toward what is a difficult question.

The resolution was adopted.

PRISONS AND JAILS.

Noble Smith offered a resolution that a commission of three be appointed to examine into the condition of Oahu Prison and the management of the prisoners, and also as far as they may be able of the condition and management of all the prisons in the Kingdom, and report to the Legislature of 1888, making such suggestions and recommendations as the committee may deem advisable.

Noble Widemann thought the commission should consist of five members, one from each island.

Noble Townsend presented the following substitute resolution:

WHEREAS, It is the opinion of this Assembly that the prisons of these islands are not efficient as possible in the suppression of crime and the reform of criminals, and in the prevention of the growth of criminals; therefore be it

Resolved, That a commission of five be appointed by the President of this House to take into consideration the present condition of the prisons of the islands, and to report to this Assembly at its next regular session: First, upon the feasibility of a classification of criminals, so that those convicted of minor offenses shall not be allowed to associate with those whose offenses are of a more vicious nature; second, of providing work for prisoners within the prison walls, so that they will not come freely in contact with children and other innocent persons in public places; third, of undertaking more systematic efforts to reform persons who are now, or hereafter may be incarcerated; fourth, to report upon such other matters relative to our prison system as they may think worthy of the attention of this House.

Noble Smith did not like the substitute because it restricted too much.

On the question being put, the substitute resolution offered by Noble Townsend was adopted.

NOTICE OF BILLS.

Minister Green gave notice of an Act to authorize the Minister of Finance to contract for the construction of international and interisland submarine electric telegraph cables.

Rep. Rice gave notice of an Act to amend chapter 44, Session Laws of 1886, relating to the taxation, educational and judicial districts.

Noble Waterhouse gave notice of an Act to provide for the organization and maintenance of the military forces of the Kingdom.

ORDER OF THE DAY.

Second reading of an Act to abolish the office of Governor.

On motion of Minister Thurston the bill was laid on the table, to be taken up and considered with the bill relating to the discharge of certain duties heretofore performed by the Governors.

CHINESE PHYSICIANS BILL.

Second reading of an Act to regulate the practice of medicine among Chinese physicians.

On motion of Noble Castle the bill passed to engrossment, and was ordered to be read a third time on Saturday.

NATURALIZATION OF FOREIGNERS.

Second reading of an Act relating to the naturalization of foreigners.

Minister Thurston said this was a rather important matter, the qualifications for naturalization were by his mind improper, and to obtain exact legislation he moved the bill be referred to the Judiciary Committee. Agreed to.

SUPREME COURT JUSTICES BILL.

Special order of the day, consideration of the majority and minority reports of the Judiciary Committee on the Supreme Court Justices bill, in Committee of the Whole.

The House resolved itself into Committee with Noble Widemann in the chair.

The two reports were read. Noble Castle moved that when the committee rise they recommend the original bill referred to Judiciary Committee pass to engrossment.

Rep. Kinney said that three judges can do the work just as efficiently as four. That is an indisputable fact. Before election we pledged ourselves to our constituents that we would favor the abolishment of all unnecessary offices. If it is true that this office is unnecessary and we have pledged ourselves to the abolishment of unnecessary offices, then this office must go to the wall without there is some special plea. The House has thrown out the permanent settlement for W. C. Parke, a faithful servant of the Government, and a bill has been introduced to do away with the small pension to Mrs. Barnard whose husband worked for the Government many years. He (the speaker) would have to vote to do away with this because he had pledged himself against settlements. This Act which he favored would not unsettle the Judiciary but carry it up to good solid ground. There was no personal feeling in the matter.

Noble Castle said they all stood pledged to reform and economy. There had been many complaints from the bar and the people that they could not get justice on appeals the way the judiciary was constituted. It is not proposed to bring any bill in at this session to regulate the judiciary,

therefore the whole matter could stand until the regular session. They should not go on blindfolded and hastily, and interfere with the judiciary prior to the comprehensive plan which was suggested for the next session.

Noble Smith said that after careful consideration he thought it best to repeal the law of 1886. It was very objectionable to have four judges. He had heard that one matter of importance to the parties concerned had not been yet decided because there was a tie. The matter stood two to two. If they repeal this law of 1886 they were returning to stability. The fourth seat is superfluous, there is no necessity for it. He moved that when the committee rise they recommend to the House that the majority report be adopted and the bill take its course.

Minister Ashford said that this was a pure matter of economy. It meant that \$2,500 would be saved between now and the end of the session. A fourth judge is unnecessary. It is an absolute superfluity, and no more use than the fifth wheel of a coach. The fourth judge, Mr. Justice Bickerton, is a gentleman whom they all respect and like to practice before. There is nothing at all personal, it is a matter in the interests of economy pure and simple. It is not necessary, let them lop it off, and not let the incumbent be an embarrassing element at the next session. He supported the majority report and earnestly appealed to the House to adopt it.

Noble Widemann said the Justices held office for life and how were they going to get out of paying this one.

Noble Smith called the Noble's attention to Article 65 of the new Constitution.

Rep. C. Brown said he could not agree that this office should be abolished at once. Radical changes in the judiciary were contemplated at the session of 1888. Taking everything into consideration it would be better for the country at large if this matter were left until then, and the Supreme Court remain as it is.

The committee then adopted the majority report.

On motion of Noble Smith the committee rose and the chairman reported to the House that the committee recommended the adoption of the majority report.

The report of the committee was adopted.

SELECT COMMITTEES.

President Wilder named the following committees:

On Pensions and Jails—Hons. W. O. Smith, H. S. Townsend, H. A. Widemann, A. S. Wilcox and A. P. Paehaole.

Commission on Crown Lands—Hons. D. H. Hitchcock, Island of Hawaii; H. P. Baldwin, Island of Maui; A. P. Paehaole, Island of Molokai; W. R. Castle, Island of Oahu; W. H. Rice, Island of Kauai.

At 3:45 the House adjourned to 10 o'clock Wednesday morning.

Legislative Chat-Chat.

The House meets at 10 o'clock this morning.

Several ladies graced the Legislative Assembly with their presence yesterday.

Noble Castle said in the House yesterday that he was no socialist.